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SUBJECT: VIETNAM: EB PDAS DONNELLY ENCOURAGES EXPANDED
TRADE AND INVESTMENT

1. Summary: On September 28, EB PDAS Ambassador Shaun Donnelly, accompanied by the Ambassador, met with Minister of Trade Truong Dinh Tuyen and Vice Minister of Planning and Investment Nguyen Bich Dat. In addition, PDAS Donnelly, accompanied by ECON/C, met with Dang Van Thanh, Vice Chairman of the National Assembly's Committee for Economic and Budgetary Affairs (CEBA) and Nguyen Hoa Binh, Director of the Economic Police Department of the Ministry of Public Security. He also met with representatives of the American business community. PDAS Donnelly encouraged the GVN to build on the success of the U.S.-Vietnam Bilateral Trade Agreement (BTA); conveyed strong USG support for Vietnam's WTO accession; urged the GVN to continue to improve Vietnam's trade and investment climate, highlighted the importance of effective enforcement of intellectual property rights (IPR); and pressed the GVN to support efforts to increase U.S. exports to and investment in Vietnam. GVN officials expressed strong commitment to international economic integration, acknowledged the success of the BTA, highlighted the importance of economic development to Vietnam's security and stability, and expressed appreciation for USG assistance in implementing the BTA through the USAID-funded Support for Trade Acceleration (STAR) Project. End Summary.

BTA: A Strong Foundation for Relationship

2. In all of his meetings in Hanoi, PDAS Donnelly applauded the success of the BTA and the growth and development of the U.S.-Vietnam bilateral economic relationship. He also noted that full implementation of the BTA is important for Vietnam's WTO accession as well as for improving Vietnam's competitiveness in expanding trade and attracting investment.

3. National Assembly (NA) CEBA Vice Chairman Dang Van Thanh told Donnelly the NA has paid significant attention to implementation of the BTA and is pleased with the deepening of the bilateral trade and investment relationship with the United States. He expressed appreciation for U.S. assistance on implementation, including through the STAR Project. Minister of Trade Tuyen highlighted the importance of security and stability for Vietnam and linked these issues to the continued development of Vietnam's economy, including through expansion of economic ties with the United States. Minister Tuyen also noted that he believes the overall U.S.-Vietnam bilateral relationship must be built on but not limited to a strong economic relationship.

Vietnam's WTO Accession

4. PDAS Donnelly expressed strong support for Vietnam's WTO accession to all of his interlocutors. He advised his counterparts that USG support for Vietnam's accession, however, does not mean the United States is willing to compromise on accession standards. Vietnam needs to join the WTO at world standards so it can compete with other WTO members.

5. Minister of Trade Truong Dinh Tuyen noted the GVN has a short timeframe in which to meet its goal of acceding to the WTO in 2005. He informed PDAS Donnelly that Vietnam intends to finish its bilateral market access negotiations (bilats) with the European Union in October and has already finished negotiations with Chile. He also stated that the GVN is "speeding up negotiations" with China and had concluded a successful meeting with the Chinese a few days ago. The GVN believes it will finish bilats with "many others" early in 2005. That said, Tuyen acknowledged that bilats with the United States are the most important part of the accession process and that Vietnam needs to accelerate the pace of negotiations with the United States.

6. Minister Tuyen stated that he believes Vietnam's accession to the WTO will be good for both countries. As

long as Vietnam is not a member, he said, "GVN policies can change" in reaction to both reform-oriented and conservative forces. The United States should not push Vietnam to liberalize too much because this could make it more difficult for Vietnam to make the right decisions regarding WTO accession. Rather, the GVN hopes the United States will be flexible and have "reasonable expectations." Minister Tuyen concluded by saying that "if the United States cannot press China, it cannot press Vietnam."

Trade and Investment Climate; Advocacy for U.S. Firms

17. At both the Ministry of Trade (MOT) and the Ministry of Planning and Investment (MPI), PDAS Donnelly urged the GVN to consider the valuable contributions American companies can make to Vietnam's trade and investment climate. Companies such as Boeing, Lockheed Martin, U.S. insurance providers, U.S. information technology companies and others are interested in selling to and investing in Vietnam. Vietnam's exporters have benefited significantly from the BTA, but the United States and Vietnam do not yet have a balanced bilateral trade and investment relationship, he stressed. Increasing U.S. exports to and investment in Vietnam will play an important role in strengthening the bilateral partnership and building support in the U.S. Congress for Vietnam's WTO accession and permanent normal trade relations status (PNTR).

18. PDAS Donnelly also urged his GVN counterparts to work quickly to make Vietnam a more competitive trade partner and investment destination. Companies can choose where they want to invest and the GVN needs to make Vietnam a more attractive place for potential investors. To help improve Vietnam's competitiveness, the GVN needs to move forward on BTA implementation and WTO accession and to move more quickly to liberalize key sectors such as telecoms and financial services. He encouraged his GVN interlocutors to take "bold" steps in this direction.

19. MPI VM Nguyen Bich Dat highlighted the importance of foreign investment to Vietnam's growth and development. He expressed disappointment in U.S. FDI levels, noting that although Vietnamese exports to the United States grew after entry-into-force of the BTA in 2001 (making the United States Vietnam's largest export market), U.S. investment in Vietnam has not increased significantly and is not yet commensurate with its potential. The GVN is taking steps to improve the investment climate including: revising and drafting key pieces of legislation; implementing BTA commitments; speeding up the equitization of state-owned enterprises (SOEs) particularly in sectors such as machinery, telecommunications, petroleum and cement; removing special privileges accorded to SOEs; opening a stock market in Hanoi and considering allowing Vietnamese businesses to issue bonds in foreign markets.

110. Both Trade Minister Tuyen and VM Dat responded positively to Donnelly's message regarding the need to improve the balance in the bilateral trade and investment relationship. Minister Tuyen said he has urged the GVN and Vietnamese businesses to look for ways to import more U.S. goods. He also noted that he supports U.S. companies, such as Boeing, that are interested in Vietnam and he knows the GVN "has good intentions" about Lockheed Martin. VM Dat assured Donnelly the GVN would consider carefully U.S. companies' proposals for investment in Vietnam.

IPR

111. Throughout his visit in Hanoi, PDAS Donnelly emphasized that strong enforcement of IPR is important to the USG and is critical to Vietnam's efforts to attract more domestic and foreign investment. Mr. Nguyen Hoa Binh, Director of the Economic Police (EP), assured PDAS Donnelly that he knew protection of IPR is an important issue for the GVN as well as for Vietnamese enterprises. He asserted that the biggest IPR-related concern for the GVN is the growing market for fake products in Vietnam, rather than domestic production of counterfeit and pirated goods. According to Mr. Binh, most of the fake goods found in Vietnam are produced in other countries (primarily China and other neighboring countries) and then imported into Vietnam. Domestic production itself is actually very small; Mr. Binh estimated its value at less than 30 million VND (under USD 2000). (Comment: While it is true that a significant percentage of the fake merchandise available in Vietnam is of Chinese origin, this figure is ridiculously low. End Comment.)

112. Binh also told PDAS Donnelly that he believes the IPR situation in Vietnam is improving. He noted that public awareness of the importance of protecting IPR is growing and that the GVN has clarified and strengthened its regulations on IPR as part of the economic integration process. In August, for the first time, the GVN hosted a national

conference on IPR in Vietnam. Binh also revealed that the EP had recently established special IPR task forces in Hanoi and HCMC and plans to expand the program throughout the country starting on October 1.

13. Binh explained that, although it is not perfect, Vietnam does have a legal framework for IPR protection that enables the EP to fight against IPR violations. In the last ten years, Vietnam has investigated over 5,000 cases of IPR infringement. However, he conceded, given that most of the fake goods are produced outside Vietnam, it is usually difficult for the EP to apprehend the "real violators." The GVN has punished the people caught selling fake goods in Vietnam with administrative fines and measures (such as the confiscation of merchandise and equipment and revocation of business licenses). Binh also acknowledged, however, that the fines allowed under Vietnamese law are too low to discourage future violations.

14. Binh expressed appreciation for the technical assistance the STAR Project has provided the EP and urged PDAS Donnelly to ensure that the USG continues to make assistance on IPR enforcement a priority. Specifically Binh requested that the USG provide additional technical assistance on IPR for Vietnam's courts and prosecutors and for additional training for police. He also advocated in favor of information exchanges between the EP and their counterparts in the United States on IPR enforcement best practices.

15. Binh characterized coordination among the GVN agencies responsible for intellectual property rights (a total of five agencies) as generally "good," particularly with respect to exchanging information, training, and investigating and prosecuting IPR violations. However, he noted, cooperation sometimes breaks down and, on occasion, other agencies have tried to avoid taking responsibility for enforcement. (Comment: We believe there are large problems with interagency cooperation on IPR enforcement, linked at least in part to overlapping jurisdiction and lack of training on both policy and process at the local levels. End Comment.)

Legislative Agenda

16. Mr. Thanh, NA CEBA Vice Chairman, told PDAS Donnelly the NA is paying more attention to the legislative process now, with particular focus on international economic integration and Vietnam's efforts to establish a market-oriented economy. The NA seeks public comments on its draft legislation and experts from the STAR project have provided the NA with line-by-line comments on draft laws and ordinances. According to Thanh, the NA has established a legislative calendar through both 2010 and 2020 and hopes to complete Vietnam's legal framework for economic reform and integration within 20 years. The NA has passed ordinances on countervailing duties, antidumping measures and safeguards and hopes to finalize a law on competition, a commercial law, and a comprehensive IPR law before the end of 2004.

17. When PDAS Donnelly asked how the NA plans to pass all of the laws necessary for WTO accession, Thanh explained that the NA plans to draft individual laws. The NA has considered but decided against following other donors' suggestions that the NA draft "omnibus" legislation that includes all of the changes necessary to prepare Vietnam for WTO accession. Thanh explained that drafting individual laws makes it easier for the NA to prioritize laws that need to be passed urgently.

Textiles: Request for additional carryforward

18. Trade Minister Tuyen raised the issue of textiles with PDAS Donnelly and complained about the difficulties the GVN is facing due to limited U.S. textile quota. He said that large U.S. companies, including J.C. Penney, Mast, Nike and the Gap, frequently call him to ask for more quota for their Vietnamese suppliers, but that he has none to give them. Minister Tuyen noted that increased textile and garment exports are good for both Vietnam and the United States because the earnings help support Vietnam's purchase of big ticket items such as Boeing 777's. He then asked PDAS Donnelly to convey a personal request to USTR and the Department of Commerce for an additional 1.8 percent carryforward in categories 338 and 339 (on top of the eight percent allowed in the bilateral textile agreement.) Minister Tuyen said the Vietnamese Embassy in Washington would be making a formal request to relevant USG agencies. According to Minister Tuyen, the request amounts to about 300,000 dozen T-shirts and will prevent Vietnamese shipments from being turned away at U.S. ports. (Note: Post received a fax copy of MOT's written request for additional carryforward on September 30. See Hanoi 2697 for text. End Note.)

19. At a lunch hosted by the Ambassador, representatives of International Data Group (IDG), Ford, American International Group (AIG), Citibank, General Electric, Microsoft, New York Life and Ace-INA International shared their perspectives on doing business in Vietnam and priorities for WTO accession with PDAS Donnelly. The primary concerns raised by the business community included: speeding up liberalization of financial services (issuance of insurance licenses, raising the cap on foreign participation in joint stock banks to at least 51 percent, addressing the issue of nonperforming loans issued by state commercial banks, eliminating the limited validity of the licenses issued to foreign banks, reducing capital investment requirements for bank branches, and advancing the implementation of the BTA obligation to allow U.S. banks the right to issue credit cards); delaying the implementation of an increase in the special consumption tax on autos set to go into effect on January 1; transparency; corruption; and IPR enforcement.

20. Comment: PDAS Donnelly's visit afforded an important opportunity to reiterate USG support for Vietnam's WTO efforts, to broaden the range of GVN officials with whom we address important trade and investment issues and to take a fresh look at American business community concerns about impediments to investment in Vietnam and priorities for Vietnam's WTO accession. We believe the Economic Police's agreement to meet with PDAS Donnelly and participate in a dialogue on IPR problems in Vietnam is a direct benefit of the good will generated by STAR's technical assistance to the EP as well as EP Director Binh's recent meetings with Department of Justice officials and Econoffs on the margin of the APEC Cybercrime Convention in Hanoi. End Comment.

20. (U) EB PDAS Donnelly cleared this cable.

MARINE